

आयकर अपीलिय अधिकरण, पुणे न्यायपीठ “एक-सदस्य मामला” पुणे में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “SMC”, PUNE**

श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष
BEFORE SHRI D. KARUNAKARA RAO, AM

आयकर अपील सं. / ITA No.1135/PUN/2018
निर्धारण वर्ष / Assessment Year : 2012-13

M/s. Eknath B. Honrao,
Ghodegaon, Ambegaon,
Pune-412408.

PAN : AAAFE4472A

.... अपीलार्थी/Appellant

Vs.

ITO, Ward-10(5),
Pune.

.... प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Shri C. H. Naniwadekar

प्रत्यर्थी की ओर से / Respondent by : Shri Sudhendu Das

सुनवाई की तारीख / Date of Hearing : 28.08.2019	घोषणा की तारीख / Date of Pronouncement: 30.08.2019
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आदेश / ORDER

PER D. KARUNAKARA RAO, AM :

This appeal is filed by the assessee against the order of CIT(A)-6,
Pune dated 14.03.2018 for the Assessment Year 2012-13.

2. The effecting ground raised by the assessee is as under :-

“1. The learned CIT(A) erred on facts and in law in upholding disallowance of Rs.9,84,500/- u/s 40(a)(ia) of the Act. He failed to appreciate the facts in its proper perspective as also the arguments and contentions advanced by the assessee in this regard.”

3. Before me, at the outset, ld. Counsel for the assessee submitted that this is a case where the Assessing Officer invoked the provisions of section

40(a)(ia) read with the proviso to section 194C(5) of the Act. The quantum limit for TDS purposes in the relevant year under consideration is Rs.50,000/-. The relevant provisions of section 194C(5) of the Act are extracted hereunder :-

*“Provided that where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds [**fifty thousand**] rupees, the person responsible for paying such sums referred to in sub-section (1) shall be liable to deduct income-tax under this section.”*

4. For the reason of failure to make the TDS in respect of the payments made to the labourers, the Assessing Officer invoked the above-said provisions and made addition of Rs.9,84,500/-. In this regard, ld. Counsel for the assessee filed the list of payment to 23 parties without making TDS. Mentioning that the requirement of making TDS become eligible only in respect of payment to Shri Chandrakant Patkar (Sr.No.1) and Shri Yogesh R. Dhonge (Sr.No.22), the ld. Counsel for the assessee submitted that other payments are below Rs.50,000/-.

5. On the other hand, ld. DR for the Revenue relied heavily on the orders of the Assessing Officer and the CIT(A).

6. On hearing both the sides, I find it is an admitted fact that such payment-wise breakup/details are not available to the revenue authorities. Considering the same, I am of the opinion that the addition, if any, should be restricted only in respect of the payments made to Shri Chandrakant Patkar (Sr.No.1) and Shri Yogesh R. Dhonge (Sr.No.22) only. With these

directions, I partly allow the claim of the assessee. The Assessing Officer is directed to examine the details filed before me and restrict accordingly.

7. In the result, the appeal of the assessee is partly allowed as above.

Order pronounced on this 30th day of August, 2019.

Sd/-
(D. KARUNAKARA RAO)
लेखा सदस्य / ACCOUNTANT MEMBER

पुणे / Pune; दिनांक Dated : 30th August, 2019.
Sujeet

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-6, Pune;
4. The Pr. CIT-5, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "एक-सदस्य मामला" / DR 'SMC', ITAT, Pune;
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune